



CALIFORNIA HIGH-SPEED RAIL AUTHORITY

BRIEFING MEMORANDUM

March 3, 2010 Executive/Administrative Committee Meeting Agenda Item #3

To: Chairman Pringle and Committee Members

From: Steve Schnaidt

Subject: 2009-10 High Speed Train Legislation Update

Discussion/Background

The Authority's staff regularly presents an information/action item summarizing new high-speed train legislation introduced in the current legislative session. In 2009, the first year of the 2009-10 Legislative Session, ten (10) bills were identified at one time or another as directly affecting or having the potential to affect in different ways the high-speed train project or related intercity passenger rail operations. The initial legislative report anticipated that the Authority could be asked for its views, if any, on the various measures as the new bills were scheduled for legislative policy and fiscal hearings and started to move through the legislative process. The April 2009 and subsequent monthly reports highlighted the provisions of the various bills and recommended to the Board formal positions on several bills and that the Board monitor the status and progress of the other identified bills. After discussion at its May meeting, the Board approved the staff report's recommended positions and action on several bills and asked that staff keep board members informed of important changes and developments in the language or status of the bills. The monthly legislative report regularly provides and updates this information.

The Legislature concluded its work on legislation for 2009 on September 11th and recessed the regular legislative session at that time. The 2009-10 session reconvened on January 4, 2010 and the Legislature resumed work on holdover bills that were introduced in 2009 and began work on new legislative proposals. The deadline for introduction of new bills for 2010 was passed in February; other important dates and legislative deadlines loom in March and ensuing months with respect to the new legislative proposals:

- February 19: last day for new bills to be introduced for 2010 and the 2009-10 legislative session.
- March 25-April 5: Legislative Spring Recess.
- April 23: Last day for policy committees to hear and report fiscal bills.

- May 7: Last day for policy committees to meet before June 7th (to accommodate Senate and Assembly Floor action on pending bills).
- May 28: Last day for fiscal committees to report house-of-origin legislation to the Floor.
- June 1-4: Floor sessions only.
- June 4: Last day to pass bills in house of origin (Assembly bills must clear the Assembly; Senate bills must clear the Senate).
- June 7: Committee meetings may resume (to hear other-house bills and those with deadline waivers)

An updated and revised summary of still-pending legislation and new legislation introduced in 2010 affecting the HSRA is presented in this report. The “current approved positions” noted for particular bills are those positions formally adopted by the Board at its prior meetings.

Recommendation:

Authority staff propose that the Authority continue its prior approved actions regarding positions on specific high-speed train legislation, consider whether to take positions on new legislation, and instruct the Executive Director to communicate any Board positions to the appropriate committees and respective authors of the bills as necessary. If there are no proposed changes, then no further Committee or Board action is necessary:

1. **AB 153 (Ma)** – *Operations and duties of the High Speed Rail Authority - Successor legislation to the Authority-sponsored AB 981 (Ma, 2007, later used for other issues).*

The bill deletes language made obsolete by the passage of AB 3034 (Prop. 1A) last year regarding a financial plan and makes several technical and clarifying changes to statutes governing the powers duties of the Authority (for example, makes a technical reference that the Board is the “governing authority” of the Authority in cases of eminent domain, clarifies that the Authority’s existing eminent domain powers exempt the Authority from having to rely on the state Public Works Board to acquire property, and deletes obsolete contingency language and updates provisions requiring the Authority to prepare construction plans for the HST system). The bill also provides that the Authority may hire its own legal counsel (and continue to use the services of the Attorney General, or both), similar to provisions for the California Transportation Commission.

Bill history/status: Approved by Assembly Transportation Committee on 3/23/09, 9-0; approved by Assembly Judiciary Committee 7-2 on 4/14/09; approved by Assembly Appropriations Committee 11-5 on 4/29/09; approved by Assembly 53-16 on 5/11/09. Sent to Senate; double-referred to Transportation and Housing and Judiciary Committees. Set for hearing in Transportation and Housing on 6/23/09; put over/postponed to later

hearing by Committee, with proposed committee amendments presented to the author. No new hearing scheduled. Two-year bill.

Current approved position: As sponsor of the bill, request that author cease further efforts to secure passage of the measure at this time. (July 20, 2009 letter sent to author requesting this.)

2. **AB 289 (Galgiani)** – *Requires that the Authority use the proceeds of the Proposition 1A high speed rail bonds to match federal high-speed rail stimulus funds to the extent possible. Also authorizes the Governor to appoint five exempt employees to the Authority who would serve as deputy directors of the Authority.*

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Proposition 1A (AB 3034), the Safe, Reliable High-Speed Passenger Train Act for the 21st Century, was approved by state voters on November 4, 2008. Prop. 1A controls the expenditure of the bond funds and imposes conditions on the use of the funds for development and construction of the high-speed train (HST) project, including that no more than 50% of the construction cost in any corridor or usable segment can come from the bond funds. Prop. 1A also requires the Authority to pursue and obtain other private and public funding, including federal funding for the HST project. Separately, the revised 2009-10 Budget Act appropriation for the Authority provides that the state appropriation for the Authority's operating and project expenses may be reduced and replaced (substituted) by an equivalent amount of any federal stimulus funds made available through the American Recovery and Reinvestment Act (ARRA).

The bill directs the Authority to seek federal ARRA funding by matching such funds with state bond funds. The bill requires the Authority, to the extent possible, to use the Prop. 1A bond funds to match federal high speed rail grant funds available under the ARRA.

The proposed bill also would give the Governor the power to appoint five additional employees to the Authority, who would be exempt from civil service, to serve as deputy directors of the Authority at the pleasure of the executive director.

Bill history/status: Approved by Assembly Transportation Committee 13-0 on 4/27/09; approved by Assembly 72-3 on 5/18/09. Sent to Senate and referred to Senate Environmental Quality Committee; hearing pending. Author prepared and added amendments on 8/17/09 to delete former contents and change subject matter to requiring

state action relative to matching federal ARRA high-speed rail stimulus funding. Re-referred to Senate Committee on Rules.

Current approved position: Support

- 3. AB 1375 (Galgiani)** – *Department of High Speed Trains. Creates a Department of High-Speed Trains within the Business, Transportation and Housing Agency to implement the policies of the High-Speed Rail Authority and perform the daily tasks of building the high-speed train project and implementing the HST system.*

The bill provides that the Authority would continue as the policy and oversight body of the HST project and exercise those powers and duties described in Proposition 1A. The bill transfers certain of the existing powers and responsibilities of the Authority to the department and adds new duties, including the annual submission of a 6-year high-speed train capital improvement program and a separate progress report to the Legislature. The Governor would appoint the department director and the Governor could appoint up to 10 exempt executive employees to staff the department, who would serve at the pleasure of the director. The bill would extend the Authority's/departments' rights-of-way and property acquisition and management authority to parallel that exercised by Caltrans and would authorize the employment of in-house legal counsel.

The bill was amended and reactivated on 1/15/10 to facilitate the measure's consideration by the Assembly and subsequent movement to the Senate. The new amendments switched from the Authority to the Governor responsibility for appointing the executive director of the Authority and placed various Proposition 1A-related functions (the day-to-day activities of developing and administering the HST project) under the new department rather than the Authority.

Bill history/status: Approved by Assembly Transportation Committee 9-4 on 4/27/09; referred to Assembly Appropriations Committee. (Pending in Appropriations Committee at request of Assembly Speaker). Approved by Assembly Appropriations Committee 12-5 on 1/21/10. Approved by Assembly 42-20 on 1/27/10 and sent to Senate. Referred to Senate Transportation and Housing Committee.

Current approved position: Monitor

4. **AB 2121 (Harkey)** – *Proposition 1A bond debt restrictions. Reduces the authorized amount of high-speed rail bond debt to the amount contracted as of January 1, 2011.*

Section 1 of Article 16 of the California Constitution provides, among other things, that after passage of a bond act by state voters the Legislature may reduce the amount of the debt authorized by the bond law, provided that the reduced debt amount is not less than the amount of debt already contracted at the time of the legislated reduction.

The bill reduces the amount of bond indebtedness authorized by Proposition 1A to the amount of debt contracted as of January 1, 2011. Therefore, the high-speed train project would not have access to further state bond proceeds without a subsequent repeal or change to the proposed debt restrictions.

Bill history/status: Introduced 2/18/10

Recommended position: Oppose

5. **SB 409 (Ducheny)** – *Rail connectivity plans and HSRA activities. Formerly, created a Department of Railroads in the Business, Transportation and Housing Agency, responsible for high-speed rail and several other current state rail programs. Current language places the Authority within the Business, Transportation and Housing Agency (BTH), requires Senate confirmation of the Governor's appointees to the board, requires annual CTC approval of an Authority funding plan, and requires BTH to prepare 5-year rail connectivity plans.*

The re-drafted measure eliminates all of the original language related to the creation of a Department of Railroads that would have included the Authority, the Caltrans Division of Rail and certain rail functions of the Public Utilities Commission. The new/current version of the bill instead places the Authority within the Business, Transportation and Housing Agency (as a stand-alone entity) and makes the Governor's five appointments to the Authority Board subject to confirmation by the State Senate.

The bill requires the BTH Secretary to prepare and submit by September 2011 a 5-year Strategic Rail Connectivity Plan for the state that would focus on linkages and feeder opportunities between high-speed and conventional intercity rail, commuter rail and rail transit. The plan would include information on the planning, capital investments and right-of-way needs of passenger rail lines in connection with highway system

improvements needed to accommodate expanded rail services. The bill also requires follow-up reports every five years. For projects subject to approval by the California Transportation Commission, the commission would have to determine that the projects are consistent with the rail plan.

The bill requires that the Authority must annually submit to the commission for approval, a funding plan describing the need for high-speed rail investments during the next fiscal year and the amount of bond sales needed to accommodate those investments.

Bill history/status: Heard in Senate Transportation and Housing Committee as an information item on 4/14/09. Rule waiver granted 5/28/09 allowed bill to be heard in policy committee after bill action deadlines. Approved by Senate Transportation and Housing Committee 10-0 on 6/9/09. Referred to Senate Appropriations Committee; set for hearing 7/23/09 pending rule waiver approval. Waiver granted; bill heard and placed on Senate Appropriations Committee Suspense File on 7/23/09. Approved by Senate Appropriations 13-0 on 8/4/09. Approved by Senate 32-0 on 1/28/10; sent to Assembly and referred to Transportation Committee.

Current approved position: Oppose (with regard to original provisions. Letter sent to author July 9, 2009.)

6. **SB 455 (Lowenthal)** – *Operations and duties of the High Speed Rail Authority. Makes numerous conforming changes to statutory provisions and adds specific references to the Authority in statutes governing property acquisition activities and eminent domain. Adds additional Phase 1 project selection criteria and requires Senate confirmation of some Board appointees. Requires the Authority to prepare an overall project schedule on a quarterly basis, approve a quarterly contract status report, and approve all contract amendments at board meetings.*

The bill proposes many technical and conforming changes to the Authority's property acquisition powers and incorporates several changes to law regarding property management as suggested by the Authority's legal counsel. The bill clarifies that the Authority has independent authority parallel to that of Caltrans in these property acquisition, management and disposition activities and is not under the general property management scheme administered by the Department of General Services for other agencies.

The bill also makes several author-initiated substantive changes to the Authority and its operations: a) the Governor's 5 appointees to the Authority would be subject to Senate confirmation (prospectively); b) the Authority would have to consider additional project selection criteria for investments in Phase 1 of the HST project—including access to railroad stations and terminals, improvements to travel times, service reliability, safety, improved connections between the San Joaquin Valley and southern California and the Bay Area, etc., or some combination of them; c) the Authority would have to prepare an overall project schedule with delivery milestones and related information and present the report quarterly to the board and the Legislature; d) the board would have to approve quarterly a written report on the status of contracts for the previous quarter, and submit the reports to the Legislature; and e) the board would have to formally approve all proposed amendments to contracts, including contract change orders, accompanied by a written report explaining the changes.

Bill history/status: Approved by the Senate Transportation and Housing Committee 10-1 on 4/22/09; approved by Senate Appropriations Committee 9-4 on 5/27/09; Approved by Senate 32-5 on 6/2/09. Sent to Assembly. Approved by Assembly Transportation Committee 10-4 on 6/29/09; approved by Assembly Appropriations Committee 11-5 on 7/15/09. Referred to Assembly Floor Third Reading File; placed on Inactive File on 7/24/09.

Current approved position: Monitor

7. **SB 964 (Alquist-Steinberg)** – *High speed rail workforce development. Requires the Authority to contract with the Community Colleges Chancellor's Office to develop a labor market assessment of the workforce, skills and education needed to construct operate and maintain the HST system, and to develop workforce training programs to ensure the availability of the necessary workforce and skills.*

The bill directs the Authority to execute a contract with the Community Colleges (CCs) to study the workforce needs of the high-speed train project and assess the labor market's ability to supply the necessary skills, education and training to develop, construct, operate and maintain the train system. The CCs would also develop comprehensive workforce training and certification programs to facilitate the availability of a workforce to carry out those project tasks and responsibilities.

The bill requires the Authority and the Chancellor's Office to jointly form a jobs advisory task force to support the contracted workforce assessment and training program activities. The task force would consist of the HSRA, the state's higher education institutions (all

three systems), California Workforce Investment Board, Department of Education, labor organizations, State Employment Training Panel and others as determined.

The workforce assessment would have to be incorporated in the Authority's biennial business plan and the bill appropriates \$25 M from the Proposition 1A bond fund to pay for the required workforce assessment and development activities.

Bill history/status: Introduced 2/18/10; dual-referred to Senate Transportation and Housing Committee and Education Committee

- 8. SB 965 (DeSaulnier)** – *Federal high-speed rail funds. Authorizes the High Speed Rail Authority to receive and expend any federal funds awarded to it for development of projects on the high-speed train system, with project progress reports to the Legislature.*

The bill authorizes the Authority's receipt and expenditure of any federal high-speed rail funds for purposes of developing projects along the high-speed rail network. The bill requires the Authority to take whatever actions are necessary to obligate and expend the federal funds to meet all applicable federal deadlines, to maximize job creation in the state as quickly as possible, to expedite completion of infrastructure projects that improve rail safety, mobility and performance, and to replace state bond funds with federal funds to the extent possible to maximize the effectiveness of state funds.

The bill requires the Authority, within 30 days of enactment of the bill, to submit to the Legislature an expenditure plan for the federal funds with specified components and information. It also requires the Authority within 180 days of receiving any award of federal funds and annually thereafter, to submit a project progress and federal funds obligation report to the Legislature.

Bill history/status: Introduced 2/5/10; referred to Senate Transportation and Housing Committee